

JAN 28 2015

A BILL FOR AN ACT

RELATING TO STATUTORY REVISION: AMENDING OR REPEALING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES AND THE SESSION LAWS OF HAWAII FOR THE PURPOSES OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, AND DELETING OBSOLETE OR UNNECESSARY PROVISIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I.

SECTION 1. Chapter 8, Hawaii Revised Statutes, is amended by amending its title to read as follows:

**"CHAPTER 8
HOLIDAYS AND PERIODS OF RECOGNITION AND OBSERVANCE"**

SECTION 2. Section 26-18, Hawaii Revised Statutes, is amended to read as follows:

"§26-18 Department of business, economic development, and tourism. (a) The department of business, economic development, and tourism shall be headed by a single executive to be known as the director of business, economic development, and tourism.

The department shall undertake statewide business and economic development activities, undertake energy development and management, provide economic research and analysis, plan for the use of Hawaii's ocean resources, and encourage the



1 development and promotion of industry and international commerce
2 through programs established by law.

3 (b) The following are placed in the department of
4 business, economic development, and tourism for administrative
5 purposes as defined by section 26-35: [~~Aloha Tower development~~
6 ~~corporation,~~] Hawaii community development authority, Hawaii
7 housing finance and development corporation, high technology
8 development corporation, land use commission, natural energy
9 laboratory of Hawaii authority, and any other boards and
10 commissions as shall be provided by law.

11 (c) The department of business, economic development, and
12 tourism shall be empowered to establish, modify, or abolish
13 statistical boundaries for cities, towns, or villages in the
14 State and shall publish, as expeditiously as possible, an up-to-
15 date list of cities, towns, and villages after changes to
16 statistical boundaries have been made."

17 SECTION 3. Section 128A-5, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "[~~§~~128A-5[~~§~~] **County organizations for homeland security.**

20 Counties are authorized, but not required, to establish
21 organizations for homeland security. If a county does not



1 establish a separate organization for homeland security, the
2 functions listed in section 128A-4 shall be incorporated into
3 the responsibilities of the county [+]emergency management[+]
4 agency."

5 SECTION 4. Section 243-3.5, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) In addition to any other taxes provided by law,
8 subject to the exemptions set forth in section 243-7, there is
9 hereby imposed a state environmental response, energy, and food
10 security tax on each barrel or fractional part of a barrel of
11 petroleum product sold by a distributor to any retail dealer or
12 end user of petroleum product, other than a refiner. The tax
13 shall be \$1.05 on each barrel or fractional part of a barrel of
14 petroleum product that is not aviation fuel; provided that of
15 the tax collected pursuant to this subsection:

16 (1) 5 cents of the tax on each barrel shall be deposited
17 into the environmental response revolving fund
18 established under section 128D-2;

19 (2) 15 cents of the tax on each barrel shall be deposited
20 into the energy security special fund established
21 under section 201-12.8;



(3) 10 cents of the tax on each barrel shall be deposited into the energy systems development special fund established under section [†]304A-2169.1[†]; and

(4) 15 cents of the tax on each barrel shall be deposited into the agricultural development and food security special fund established under section 141-10.

The tax imposed by this subsection shall be paid by the distributor of the petroleum product."

SECTION 5. Section 291C-77, Hawaii Revised Statutes, is amended to read as follows:

"§291C-77 Pedestrians soliciting rides, business, or attention of motorist. (a) Except as otherwise provided by county ordinance, no person shall stand in, walk along, or otherwise occupy a portion of a highway for the purpose of soliciting a ride, employment, business, or contributions from the occupant of any vehicle.

(b) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.



1 ~~[(e) Except as otherwise provided by county ordinance, no~~
2 ~~person shall hold or display a movable sign within the right of~~
3 ~~way boundaries of a public highway or on the sidewalk abutting a~~
4 ~~public highway or in an area adjacent to the highway for the~~
5 ~~purpose of carrying on political campaign activities as defined~~
6 ~~in section 19-6(7) and which seek to draw the attention of~~
7 ~~occupants of motor vehicles using the highway. A movable sign~~
8 ~~is any portable device, display, emblem, billboard, notice,~~
9 ~~picture, painting or writing, other than official signs placed~~
10 ~~or required by the State or county.] "~~

11 SECTION 6. Section 291C-137, Hawaii Revised Statutes, is
12 amended by amending subsection (e) to read as follows:

13 "(e) As used in this section:

14 "Emergency responders" includes firefighters, emergency
15 medical technicians, mobile intensive care technicians,
16 [+]emergency management[+] workers, police officers, and federal
17 and state law enforcement officers.

18 "Fleet vehicle" means any vehicle validly registered
19 pursuant to section 286-53.5.

20 "Mobile electronic device" means any handheld or other
21 portable electronic equipment capable of providing wireless or



1 data communication between two or more persons or of providing
2 amusement, including but not limited to a cellular phone, text
3 messaging device, paging device, personal digital assistant,
4 laptop computer, video game, or digital photographic device, but
5 does not include any audio equipment or any equipment installed
6 in a motor vehicle for the purpose of providing navigation,
7 emergency assistance to the operator of the motor vehicle, or
8 video entertainment to the passengers in the rear seats of the
9 motor vehicle.

10 "Operate" a motor vehicle means to drive or assume actual
11 physical control of the vehicle upon a public way, street, road,
12 or highway, including operation while temporarily stationary
13 because of traffic, a traffic light, or a stop sign.

14 "Use" or "using" means holding a mobile electronic device
15 while operating a motor vehicle."

16 SECTION 7. Section 304A-2351, Hawaii Revised Statutes, is
17 amended by amending subsection (c) to read as follows:

18 "(c) Neither the trust established by the university
19 pursuant to subsection (a), nor any trustee thereof, shall be a
20 department, [~~office,~~] agency, board, commission, bureau,
21 instrumentality, committee, authority, or office of the State or



1 any of its political subdivisions, or otherwise deemed a public
2 or quasi-public entity, nor shall the initial funding of, or a
3 transfer to, the trust constitute a state grant. The trust
4 shall not be subject to laws or rules governing state and other
5 public or quasi-public entities, including but not limited to
6 chapters 23, 36, 37, 38, 40, 42F, 76, 78, 84, 89, 91, 92, 92F,
7 103, and 103D."

8 SECTION 8. Section 346-97, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) The department shall adopt rules pursuant to chapter
11 91 establishing standards regarding the reputable and
12 responsible character of service providers who have direct
13 contact with individuals receiving services under this part,
14 including:

15 (1) Purchase of service contracted and subcontracted
16 service providers and their employees serving clients
17 of the [+]adult protective and community services
18 branch[+];

19 (2) The foster grandparent program, senior companion
20 program, and respite companion program participants;
21 and



(3) Contracted and subcontracted service providers and their employees and new employees who provide home and community-based services under section 1915(c) of the Social Security Act (42 U.S.C. §1396n(c)), or under any other applicable section or sections of the Social Security Act for the purposes of providing home and community-based services."

SECTION 9. Section 346-224, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) Nothing in this section shall require a member of the clergy to report communications that are protected under rule 506 of [~~chapter 626.~~] the Hawaii rules of evidence."

SECTION 10. Section 348-7, Hawaii Revised Statutes, is amended to read as follows:

"§348-7 Cooperative arrangements, etc. Pursuant to the general policies of the department of human services, the department is authorized:

(1) To cooperate with and utilize the services of the state agency administering the public assistance program, the [~~federal Bureau of Old Age and Survivors Insurance (Department of Health, Education, and~~



1 ~~Welfare)~~] Social Security Administration, and other
2 federal, state, city and county, and local public
3 agencies providing services relating to vocational
4 rehabilitation, and with the state system of public
5 employment offices in the State, and shall make
6 maximum feasible utilization of the job placement and
7 employment [~~counselling~~] counseling services and other
8 services and facilities of [~~such~~] the offices[~~-~~];

9 (2) To cooperate with political subdivisions[~~-~~] and other
10 public and nonprofit organizations and agencies, in
11 their establishment of workshops and rehabilitation
12 facilities[~~-~~] and, to the extent feasible in providing
13 vocational rehabilitation services, shall utilize all
14 [~~such~~] the facilities meeting the standards
15 established by the department[~~-~~];

16 (3) To enter into contractual arrangements with the
17 [~~federal Bureau of Old Age and Survivors Insurance~~
18 ~~(Department of Health, Education, and Welfare)~~] Social
19 Security Administration, with respect to
20 certifications of disability and performance of other
21 services, and with other authorized public agencies



1 for performance of services related to vocational
2 rehabilitation, for [~~such~~] the agencies[~~-~~]; and

3 (4) To contract with schools, hospitals, and other
4 agencies, and with doctors, nurses, technicians, and
5 other persons, for training, physical restoration,
6 transportation, and other vocational rehabilitation
7 services."

8 SECTION 11. Section 371-20, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) For purposes of this section, "employer" means any
11 person that:

12 (1) Holds a class 5 or class 11 liquor license pursuant to
13 section 281-31;

14 (2) Maintains a massage therapy establishment that employs
15 five or more people; or

16 (3) Employs one or more erotic or nude massagers or
17 [~~erotic~~] exotic or nude dancers as defined in section
18 712-1210."

19 SECTION 12. Section 383-2, Hawaii Revised Statutes, is
20 amended by amending subsections (d) and (e) to read as follows:



1 "(d) The term "employment" shall include an individual's
2 service, wherever performed within the United States, the Virgin
3 Islands, or Canada, if [~~(a)~~ ~~such~~]:

4 (1) The service is not covered under the unemployment
5 compensation law of any other state, the Virgin
6 Islands, or Canada[~~7~~]; and [~~(b)~~ ~~the~~]

7 (2) The place from which the service is directed or
8 controlled is in this State.

9 (e) "Employment" includes service performed by an
10 individual in agricultural labor as defined in section 383-9
11 except for service excluded under [~~paragraph (1) of section~~
12 ~~383-7.~~] section 383-7(a)(1).

13 (1) For the purposes of this section, any individual who
14 is a member of a crew furnished by a crew leader to
15 perform service in agricultural labor for any other
16 person shall be treated as an employee of [~~such~~] the
17 crew leader:

18 (A) If [~~such~~] the crew leader holds a valid
19 certificate of registration under the Farm Labor
20 Contractor Registration Act of 1963; or
21 substantially all the members of [~~such~~] the crew



1 operate or maintain tractors, mechanized
2 harvesting or cropdusting equipment, or any other
3 mechanized equipment, which is provided by [such]
4 the crew leader; and

5 (B) If [such] the employee is not an employee of
6 [such] the other person within the meaning of
7 subsection (b) [~~of this section~~].

8 (2) For the purposes of this subsection, in the case of
9 any individual who is furnished by a crew leader to
10 perform service in agricultural labor for any other
11 person and who is not treated as an employee of [such]
12 the crew leader under paragraph (1) [~~above~~]:

13 (A) [~~Such~~] The other person and not the crew leader
14 shall be treated as the employer of [such] the
15 individual; and

16 (B) [~~Such~~] The other person shall be treated as
17 having paid cash remuneration to [such] the
18 individual in an amount equal to the amount of
19 cash remuneration paid to [such] the individual
20 by the crew leader (either on the crew leader's
21 own behalf or on behalf of [such] the other



1 person) for the service in agricultural labor
2 performed for [~~such~~] the other person.

3 (3) For the purposes of this subsection, the term "crew
4 leader" means an individual who:

5 (A) Furnishes individuals to perform service in
6 agricultural labor for any other person;

7 (B) Pays (either on the crew leader's own behalf or
8 on behalf of [~~such~~] the other person) the
9 individuals so furnished by the crew leader for
10 the service in agricultural labor performed by
11 them; and

12 (C) Has not entered into a written agreement with
13 [~~such~~] the other person under which [~~such~~] the
14 individual is designated as an employee of [~~such~~]
15 the other person."

16 SECTION 13. Section 383-8, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§383-8 Included and excluded service.** If the services
19 performed during one-half or more of any pay period by an
20 individual for the person employing the individual constitute
21 employment, all the services of the individual for the period



1 shall be deemed to be employment; but if the services performed
2 during more than one-half of any [~~such~~] pay period by an
3 individual for the person employing the individual do not
4 constitute employment, then none of the services of the
5 individual for the period shall be deemed to be employment. As
6 used in this [~~paragraph~~] section, the term "pay period" means a
7 period (of not more than thirty-one consecutive days) for which
8 a payment of remuneration is ordinarily made to the individual
9 by the person employing the individual. This [~~paragraph~~]
10 section shall not be applicable with respect to services
11 performed in a pay period by an individual for the person
12 employing the individual, where any of [~~such~~] the service is
13 excepted by section [~~383-7(8)-~~] 383-7(a)(8)."

14 SECTION 14. Section 383-95, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) Except as otherwise provided in this chapter,
17 information obtained from any employing unit or individual
18 pursuant to the administration of this chapter and
19 determinations as to the benefit rights of any individual shall
20 be held confidential and shall not be disclosed or be open to
21 public inspection in any manner revealing the individual's or



1 employing unit's identity. Any claimant (or the claimant's
2 legal representative) shall be supplied with information from
3 the records of the department to the extent necessary for the
4 proper presentation of the claimant's claim in any proceeding
5 under this chapter. Subject to ~~[such]~~ restrictions as the
6 director may by rule prescribe, ~~[and]~~ reimbursement of costs to
7 the department incurred in furnishing the information ~~[are~~
8 ~~reimbursed to the department]~~, and the establishment of all
9 safeguards ~~[are established]~~ as are necessary to ensure that
10 information furnished by the department is used only for
11 authorized purposes, the information and determinations may be
12 made available to:

13 (1) Any federal or state agency charged with the
14 administration of an unemployment compensation law or
15 the maintenance of a system of public employment
16 offices;

17 (2) The ~~[Bureau of Internal Revenue]~~ Internal Revenue
18 Service of the United States Department of the
19 Treasury;



(3) Any federal, state, or municipal agency charged with the administration of a fair employment practice or anti-discrimination law;

(4) Any other federal, state, or municipal agency if the director deems that the disclosure to the agency serves the public interest; and

(5) Any federal, state, or municipal agency if the disclosure is authorized under section 303 of the Social Security Act and section 3304 of the Internal Revenue Code of 1986, as amended."

SECTION 15. Section 385-6, Hawaii Revised Statutes, is amended to read as follows:

"§385-6 Requirements for eligibility. An unemployed claimant is eligible to receive additional unemployment benefits with respect to any week only if the director of labor and industrial relations finds that:

(1) The claimant has made a claim for additional unemployment benefits with respect to ~~[such]~~ that week in accordance with the ~~[regulations]~~ rules as the director may prescribe with respect to claims for normal benefits;



(2) The claimant meets the eligibility requirements of
~~[paragraphs (2) and (3) of section 383-29,]~~ section
383-29(a)(2) and (3);

(3) The claimant is not subject to disqualification and is
not under disqualification for normal benefits under
section 383-30;

(4) The claimant is not entitled to receive unemployment
compensation benefits under any state or federal
unemployment compensation laws for the week in which
the claimant claims for additional unemployment
benefits;

(5) The claimant is not entitled to receive disaster
benefits under any state or federal law for the week
in which the claimant claims additional unemployment
benefits."

SECTION 16. Section 435H-4, Hawaii Revised Statutes, is
amended by amending subsection (d) to read as follows:

"(d) The governor shall designate one representative to
serve as the State's official representative on the board from
among the following: the director of commerce and consumer
affairs, the director of health, the director of human services,



1 the director of labor and industrial relations, a representative
2 from the office of healthcare transformation, or a
3 representative from the office of information management and
4 technology.

5 The governor's designated representative shall be an ex
6 officio[+],[+] voting member of the board. The remaining state
7 officials shall be ex officio[+],[+] nonvoting members of the
8 board. The governor shall notify the chair of the [+]board[+]
9 regarding the selection of the designated voting and nonvoting
10 state members of the board.

11 The director of commerce and consumer affairs, the director
12 of health, the director of human services, and the director of
13 labor and industrial relations may select a designee for a
14 specified meeting or meetings. [~~Such~~] The selection of the
15 designee shall be submitted in writing to the board of directors
16 prior to or at the meeting in which the designee will serve."

17 SECTION 17. Section 457G-1.4, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) Except as specifically provided in this chapter, no
20 person shall engage in the practice of occupational therapy as
21 an occupational [~~therapist~~] therapy assistant or use the title



1 "licensed occupational [~~therapist~~] therapy assistant" or

2 "occupational [~~therapist~~] therapy assistant" unless:

3 (1) The practice is performed under the supervision of and
4 in partnership with a person who is an occupational
5 therapist licensed to practice occupational therapy in
6 the State; and

7 (2) The person possesses a valid license issued pursuant
8 to this chapter to practice occupational therapy as an
9 occupational therapy assistant."

10 SECTION 18. Section 601-17.5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[~~+~~]**\$601-17.5[+]** **Collection of delinquent court-ordered**
13 **payments.** The judiciary may contract with a collection agency
14 bonded under chapter 443B or with a licensed attorney to collect
15 any delinquent court-ordered penalties, fines, restitution,
16 sanctions, and court costs, including [~~restitution and~~] juvenile
17 monetary assessments. Any fees or costs associated with the
18 collection efforts shall be added to the amount due and retained
19 by the collection agency as its payment; provided that no [~~such~~]
20 fees or costs shall exceed fifty per cent of the amount
21 collected."



1 SECTION 19. Section 662-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "acting within the scope
3 of his office or employment" to read as follows:

4 "Acting within the scope of [~~his~~] the employee's office or
5 employment", in the case of a member of the Hawaii [~~national~~
6 ~~guard~~] National Guard or Hawaii state defense force, means
7 acting in the line of duty."

8 SECTION 20. Section 662-3, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**S662-3 Jurisdiction.** The circuit courts of the State
11 and, except as otherwise provided by statute or rule, the state
12 district courts shall have original jurisdiction of all tort
13 actions on claims against the State, for money damages, accruing
14 on and after July 1, 1957, for injury or loss of property, or
15 personal injury or death caused by the negligent or wrongful act
16 or omission of any employee of the State while acting within the
17 scope of [~~his~~] the employee's office or employment."

18 SECTION 21. Section 702-230, Hawaii Revised Statutes, is
19 amended by amending subsection (4) to read as follows:

20 "(4) Intoxication [~~which~~] that is:

21 (a) [~~is not~~] Not self-induced; or



(b) ~~[is pathological]~~ Pathological,
is a defense if by reason of ~~[such]~~ the intoxication the
defendant at the time of the defendant's conduct lacks
substantial capacity either to appreciate its wrongfulness or to
conform the defendant's conduct to the requirements of law."

SECTION 22. Section 706-660.2, Hawaii Revised Statutes, is
amended to read as follows:

**"§706-660.2 Sentence of imprisonment for offenses against
children, elder persons, or handicapped persons. (1)**

Notwithstanding section 706-669, if not subjected to an extended
term of imprisonment pursuant to section 706-662, a person [who,
~~in the course of committing or attempting to commit a felony,~~
shall be sentenced to a mandatory minimum term of imprisonment
without possibility of parole as provided in subsection (2) if:

(a) The person, in the course of committing or attempting
to commit a felony, causes the death or inflicts
serious or substantial bodily injury upon [a] another
person who is:

~~[(1)]~~ (i) Sixty years of age or older;

~~[(2)]~~ (ii) Blind, a paraplegic, or a quadriplegic; or

~~[(3)]~~ (iii) Eight years of age or younger; and



1 (b) ~~[and such]~~ Such disability is known or reasonably
2 should be known to the defendant~~[, shall, if not~~
3 ~~subjected to an extended term of imprisonment pursuant~~
4 ~~to section 706-662, be sentenced to a mandatory~~
5 ~~minimum term of imprisonment without possibility of~~
6 ~~parole as follows:]~~.

7 (2) The term of imprisonment for a person sentenced
8 pursuant to subsection (1) shall be as follows:

9 ~~[+1+]~~ (a) For murder in the second degree--fifteen years;

10 ~~[+2+]~~ (b) For a class A felony--six years, eight months;

11 ~~[+3+]~~ (c) For a class B felony--three years, four months;

12 ~~[+4+]~~ (d) For a class C felony--one year, eight months."

13 SECTION 23. Section 707-700, Hawaii Revised Statutes, is
14 amended by amending the definition of "vulnerable user" to read
15 as follows:

16 "Vulnerable user" means:

17 (1) A pedestrian legally within a street or public
18 highway;

19 (2) A roadway worker actually engaged in work upon a
20 street or public highway or in work upon utility
21 facilities along a street or public highway, or



1 engaged in the provision of emergency services within
2 a street or public highway, including but not limited
3 to:

4 ~~[(A)]~~ (a) Construction and maintenance workers; and
5 ~~[(B)]~~ (b) Police, fire, and other emergency
6 responders; or

7 (3) A person legally operating any of the following within
8 the street or public highway:

9 ~~[(A)]~~ (a) A bicycle;

10 ~~[(B)]~~ (b) A moped;

11 ~~[(C)]~~ (c) An electric personal assistive mobility
12 device; or

13 ~~[(D)]~~ (d) A wheelchair conveyance or other personal
14 mobility device."

15 SECTION 24. Section 707-722, Hawaii Revised Statutes, is
16 amended by amending subsections (2) and (3) to read as follows:

17 "(2) In any prosecution under this section, it is an
18 affirmative defense~~[-]~~ that:

19 (a) ~~[the]~~ The person restrained was less than eighteen
20 years old~~[-]~~;



1 (b) [~~the~~] The defendant was a relative of the victim[~~r~~];
2 and

3 (c) [~~the~~] The defendant's sole purpose was to assume
4 custody over the victim.

5 In that case, the liability of the defendant, if any, is
6 governed by section 707-727, and the defendant may be convicted
7 under section 707-727, although charged under this section.

8 (3) In any prosecution under this section, it is an
9 affirmative defense[~~r~~] that:

10 (a) [~~the~~] The person restrained [~~(a)~~] was [~~en~~]:

11 (i) On or in the immediate vicinity of the premises
12 of a retail mercantile establishment for the
13 purpose of investigation or questioning as to the
14 ownership of any merchandise; [~~(b)~~ was
15 restrained]

16 (ii) Restrained in a reasonable manner and for not
17 more than a reasonable time; [~~(c)~~ was restrained]
18 and

19 (iii) Restrained to permit [~~such~~] the investigation or
20 questioning by a police officer or by the owner
21 of the retail mercantile establishment, the



owner's authorized employee, or the owner's
agent; and [~~(d)~~ ~~that such~~]

(b) The police officer, owner, employee, or agent had
reasonable grounds to believe that the person [~~se~~]
detained was committing or attempting to commit theft
of merchandise on the premises."

SECTION 25. Section 707-769, Hawaii Revised Statutes, is
amended by amending subsection (1) to read as follows:

"(1) It is a defense to a prosecution for extortion as
defined by paragraph (1) of section 707-764 that the defendant:

(a) Was unaware that the property or service was that of
another; or

(b) Believed that the defendant was entitled to the
property or services under a claim [~~or~~] of right or
that the defendant was authorized, by the owner or by
law, to obtain or exert control as the defendant did."

SECTION 26. Section 708-880, Hawaii Revised Statutes, is
amended by amending subsection (2) to read as follows:

"(2) In this section:

"Agent" means:

[~~(i)~~] (a) An agent or employee of another;



1 ~~[(+ii)]~~ (b) A trustee, guardian, or other fiduciary;

2 ~~[(+iii)]~~ (c) A lawyer, physician, accountant, appraiser, or
3 other professional adviser or informant;

4 ~~[(+iv)]~~ (d) An officer, director, partner, manager, or other
5 participant in the direction of the affairs of an
6 incorporated or unincorporated association; or

7 ~~[(+v)]~~ (e) An arbitrator or other purportedly disinterested
8 adjudicator or referee.

9 "Agent in charge of employment" does not include any person
10 conducting a private employment agency licensed and operating in
11 accordance with law.

12 "Appraiser" means a person who holds ~~[himself]~~ oneself out
13 to the public as being engaged in the business of making
14 disinterested selection, appraisal, or criticism of commodities
15 or services."

16 SECTION 27. Section 710-1077, Hawaii Revised Statutes, is
17 amended by amending subsections (6) and (7) to read as follows:

18 "(6) Nothing in this section shall be construed to alter
19 the court's power to punish civil contempt. When the contempt
20 consists of the refusal to perform an act which the contemnor
21 has the power to perform, the contemnor may be imprisoned until



1 the contemnor has performed it. In such a case the act shall be
2 specified in the warrant of commitment. In any proceeding for
3 review of the judgment or commitment, no presumption of law
4 shall be made in support of the jurisdiction to render the
5 judgment or order the commitment. When a court of competent
6 jurisdiction issues an order compelling a parent to furnish
7 support, including child support, medical support, or other
8 remedial care, for the parent's child, it shall constitute prima
9 facie evidence of a civil contempt of court upon proof that:

10 ~~[(1)]~~ (a) The order was made, filed, and served on the
11 parent or proof that the parent was present in court
12 at the time the order was pronounced; and

13 ~~[(2)]~~ (b) The parent did not comply with the order.

14 An order of civil contempt of court based on prima facie
15 evidence under this subsection shall clearly state that the
16 failure to comply with the order of civil contempt of court may
17 subject the parent to a penalty that may include imprisonment
18 or, if imprisonment is immediately ordered, the conditions that
19 must be met for release from imprisonment. A party may also
20 prove civil contempt of court by means other than prima facie
21 evidence under this subsection.



1 (7) Any violation or disobedience of any injunction or
2 order expressly provided for in part V of chapter 712 is
3 punishable by:

4 (a) A fine of not less than \$400 nor more than \$5,000;

5 (b) [~~By imprisonment~~] Imprisonment for not less than one
6 nor more than six months; or

7 (c) Both a fine and imprisonment pursuant to paragraphs

8 (a) and (b)."

9 SECTION 28. Section 711-1100, Hawaii Revised Statutes, is
10 amended by amending the definition of "necessary sustenance" to
11 read as follows:

12 "Necessary sustenance" means care sufficient to preserve
13 the health and well-being of a pet animal, except for
14 emergencies or circumstances beyond the reasonable control of
15 the owner or caretaker of the pet animal, and includes but is
16 not limited to the following requirements:

17 (1) Food of sufficient quantity and quality to allow for
18 normal growth or maintenance of body weight;

19 (2) Open or adequate access to water in sufficient
20 quantity and quality to satisfy the animal's needs;

21 (3) Access to protection from wind, rain, or sun;



(4) An area of confinement that has adequate space necessary for the health of the animal and is kept reasonably clean and free from excess waste or other contaminants that could affect the animal's health; provided that the area of confinement in a primary pet enclosure ~~[must]~~ shall:

~~[(A)]~~ (a) Provide access to shelter;

~~[(B)]~~ (b) Be constructed of safe materials to protect the pet animal from injury;

~~[(C)]~~ (c) Enable the pet animal to be clean, dry, and free from excess waste or other contaminants that could affect the pet animal's health;

~~[(D)]~~ (d) Provide the pet animal with a solid surface or resting platform that is large enough for the pet animal to lie upon in a normal manner, or, in the case of a caged bird, a perch that is large enough for the bird to perch upon in a normal manner;

~~[(E)]~~ (e) Provide sufficient space to allow the pet animal ~~[to]~~, at minimum, to do the following:



(i) Easily stand, sit, lie, turn around, and make all other normal body movements in a comfortable manner for the pet animal, without making physical contact with any other animal in the enclosure; and

(ii) Interact safely with other animals within the enclosure; and

(5) Veterinary care when needed to prevent suffering."

SECTION 29. Section 712-1209.6, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person convicted of committing the offense of prostitution under section 712-1200, loitering for the purpose of engaging in or advancing prostitution under section 712-1206, street solicitation of prostitution in designated areas under section 712-1207, or convicted of a lesser offense when originally charged with a violation of section 712-1200, 712-1206, or 712-1207, may file a motion to vacate the conviction if the defendant's participation in the offense was the result of the person having been a victim of:

(a) Promoting prostitution in the first degree under section 712-1202; or



(b) A severe form of trafficking as defined in title 22 United States Code section [~~7102(13)~~] 7102(14)."

SECTION 30. Section 712-1216, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) The fact that a person engaged in the conduct specified by [~~sections 712-1214 or~~] section 712-1215 is prima facie evidence that the person engaged in that conduct with knowledge of the character and content of the material disseminated or the performance produced, presented, directed, participated in, exhibited, or to be exhibited."

SECTION 31. Section 803-9, Hawaii Revised Statutes, is amended to read as follows:

"§803-9 Examination after arrest; rights of arrested person. It shall be unlawful in any case of arrest for examination:

(1) To deny to the person so arrested the right of seeing, at reasonable intervals and for a reasonable time at the place of the person's detention, counsel or a member of the arrested person's family;

(2) To unreasonably refuse or fail to make a reasonable effort, where the arrested person so requests and



1 prepays the cost of the message, to send a telephone,
2 cable, or wireless message through a police officer or
3 another than the arrested person to the counsel or
4 member of the arrested person's family;

5 (3) To deny to counsel ~~[+]~~, whether retained by the
6 arrested person or a member of the arrested person's
7 family~~[+]~~, or to a member of the arrested person's
8 family, the right to see or otherwise communicate with
9 the arrested person for a reasonable period at the
10 place of the arrested person's detention:

11 (A) ~~[at]~~ At any time for a ~~[reasonable period for the~~
12 ~~first time]~~ first communication after the
13 arrest~~[+]~~; and

14 (B) ~~[thereafter at]~~ At reasonable intervals ~~[and for~~
15 ~~a reasonable time;]~~ thereafter;

16 (4) In case the person arrested has requested that the
17 person see an attorney or member of the person's
18 family, to examine the person before the person has
19 had a fair opportunity to see and consult with the
20 attorney or member of the person's family;



1 (5) To fail, within forty-eight hours of the arrest of a
2 person on suspicion of having committed a crime,
3 either to release or to charge the arrested person
4 with a crime and take the arrested person before a
5 qualified magistrate for examination."

6 SECTION 32. Section 803-46, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By amending subsection (a) to read:

9 "(a) Each application for an order authorizing or
10 approving the interception of a wire, oral, or electronic
11 communication shall be made in writing upon oath or affirmation
12 to a designated judge and shall be accompanied by a written
13 memorandum recommending approval or disapproval by the
14 department of [+]the[+] attorney general. The application shall
15 state the applicant's authority to make the application. The
16 term "designated judge" as used in this section shall not only
17 mean a circuit court judge specifically designated by the chief
18 justice of [+]the[+] Hawaii supreme court, but shall also mean
19 any circuit court judge or district court judge, if no circuit
20 court judge has been designated by the chief justice[-] or is



1 otherwise unavailable. Each application shall include the
2 following information:

- 3 (1) The identity of the investigative or law enforcement
4 ~~[officer(s)]~~ officer or officers requesting the
5 application, the ~~[official(s)]~~ official or officials
6 applying for an order;
- 7 (2) A full and complete statement of the facts and
8 circumstances relied upon by the applicant, to justify
9 the applicant's belief that an order should be issued,
10 including:
- 11 (A) ~~[details]~~ Details as to the particular offense
12 that has been, is being, or is about to be
13 committed~~[7]~~;
- 14 (B) ~~[except]~~ Except as provided in subsection (j), a
15 particular description of the nature and location
16 of the facilities from which or the place where
17 the communication is to be intercepted~~[7]~~;
- 18 (C) ~~[a]~~ A particular description of the type of
19 communications sought to be intercepted~~[7]~~;
- 20 (D) ~~[the]~~ The identity or descriptions of all
21 persons, if known, committing the offense and



1 whose communications are to be intercepted[, ~~and~~
2 ~~where appropriate~~]; and

3 (E) Where appropriate, the involvement of organized
4 crime;

5 (3) A full and complete, but not unduly technical or
6 complex, statement of the facts concerning how the
7 interception is to be accomplished, and if physical
8 entry upon private premises is necessary, facts
9 supporting ~~[such]~~ the necessity;

10 (4) A full and complete statement of facts as to whether
11 or not other investigative procedures have been tried
12 and failed or why they reasonably appear to be
13 unlikely to succeed if tried or to be too dangerous;

14 (5) A statement of facts indicating the period of time for
15 which the interception is required to be maintained.

16 If the nature of the investigation is such that the
17 authorization for interception should not
18 automatically terminate when the described type of
19 communication has been obtained, a particular
20 description of facts establishing probable cause to



1 believe that additional communications of the same
2 type will occur thereafter;

3 (6) A full and complete statement of the facts concerning
4 all previous applications known to the individual
5 authorizing and making the application, made to any
6 designated judge for authorization to intercept, or
7 for approval of interceptions of, wire, oral, or
8 electronic communications involving any of the same
9 persons, facilities, or places specified in the
10 application, and the action taken by the designated
11 judge on each application; and

12 (7) When the application is for the extension of an order,
13 a statement setting forth the results thus far
14 obtained from the interception, or a reasonable
15 explanation of the failure to obtain any results."

16 2. By amending subsection (g) to read:

17 "(g) (1) The contents of any wire, oral, or electronic
18 communication intercepted by any means authorized by
19 this part [~~shall~~], if possible, shall be recorded on
20 tape or wire or other comparable device. The
21 recording of the contents of any wire, oral, or



1 electronic communication under this subsection shall
2 be done to protect the recording from being edited or
3 otherwise altered. Immediately upon the expiration of
4 the time period provided in the order, or extensions
5 thereof, the recording shall be made available to the
6 designated judge issuing the order and sealed under
7 the designated judge's directions. Custody of the
8 recording shall be determined by order of the
9 designated judge. Recordings and other evidence of
10 the contents of conversations and applications and
11 orders shall not be destroyed except upon an order of
12 the designated judge and in any event shall be kept
13 for ten years. However, upon the request of all the
14 parties to particular conversations, evidence of
15 conversations between those parties shall be destroyed

16 if:

- 17 (A) [~~if there~~] There are no incriminating statements;
18 (B) [~~if any~~] Any incriminating statements are
19 inadmissible at trial pursuant to section
20 803-45(f); or



1 (C) [~~if the~~] The interception of the conversations is
2 determined to have been illegal.

3 Duplicate recordings may be made for use or disclosure
4 pursuant to section 803-45(a) and (b) for
5 investigations. The presence of the seal required by
6 this subsection, or a satisfactory explanation for the
7 absence thereof, shall be a prerequisite for the use
8 or disclosure of the contents of any wire, oral, or
9 electronic communication or evidence derived therefrom
10 under section 803-45(c).

11 (2) Applications made and orders granted under this
12 part[7] and evidence obtained through court-ordered
13 interceptions shall be sealed by the designated judge.
14 Custody of the above shall be wherever the designated
15 judge directs. Applications and orders shall be
16 disclosed only upon a showing of good cause before a
17 designated judge and shall not be destroyed, except
18 upon order of the designated judge, and, in any event,
19 shall be kept for ten years.

20 (3) Any violation of the provisions of this subsection may
21 be punished as contempt by the designated judge.



1 (4) Within a reasonable time but no later than ninety days
2 after either the filing of an application for an
3 approval under subsection (d) that is denied or the
4 termination of the period of an order or extensions
5 thereof, the designated judge shall cause an inventory
6 to be served on the persons named in the order, on all
7 other known parties to intercepted communications, and
8 to any other persons as the court may determine is in
9 the interest of justice. The inventory shall include
10 notice of:

11 (A) The fact of the entry of the order;

12 (B) The date of the entry and the period of
13 authorized, or approved interception; and

14 (C) The fact that during the applicable time period,
15 wire, oral, or electronic communications were or
16 were not intercepted.

17 The designated judge, upon the filing of a motion, may
18 make available to the person or the person's counsel
19 for inspection after the inventory has been served all
20 portions of the intercepted communications that
21 contain conversations of that person, applications,



1 orders, and other evidence obtained as a result of the
2 use of interception orders. The designated judge may
3 order the additional disclosure as the designated
4 judge determines to be in the interest of justice. On
5 an ex parte showing of good cause, the designated
6 judge may permit the serving of the inventory required
7 by this subsection to be postponed."

8 SECTION 33. Section 806-83, Hawaii Revised Statutes, is
9 amended by amending subsections (a) and (b) to read as follows:

10 "(a) Criminal charges may be instituted by written
11 information for a felony when the charge is a class C felony
12 under section 19-3.5 (voter fraud); section 128D-10 (knowing
13 releases); section 132D-14(a)(1), (2)(A), and (3) (relating to
14 penalties for failure to comply with requirements of sections
15 132D-7, 132D-10, and 132D-16); [~~section 134-24 (place to keep
16 unloaded firearms other than pistols and revolvers);~~] section
17 134-7(a) and (b) (ownership or possession prohibited); section
18 134-8 (ownership, etc., of automatic firearms, silencers, etc.,
19 prohibited; penalties); section 134-9 (licenses to carry);
20 section 134-17(a) (relating to false information or evidence
21 concerning psychiatric or criminal history); section 134-24



1 (place to keep unloaded firearms other than pistols and
2 revolvers); section 134-51 (deadly weapons); section 134-52
3 (switchblade knives); section 134-53 (butterfly knives); section
4 188-23 (possession or use of explosives, electrofishing devices,
5 and poisonous substances in state waters prohibited); section
6 231-34 (attempt to evade or defeat tax); section 231-36 (false
7 and fraudulent statements); section 245-37 (sale or purchase of
8 packages of cigarettes without stamps); section 245-38 (vending
9 unstamped cigarettes); section 245-51 (export and foreign
10 cigarettes prohibited); section 245-52 (alteration of packaging
11 prohibited); section 291C-12.5 (accidents involving substantial
12 bodily injury); section 291E-61.5 (habitually operating a
13 vehicle under the influence of an intoxicant); section 329-41
14 (prohibited acts B--penalties); section 329-42 (prohibited acts
15 C--penalties); section 329-43.5 (prohibited acts related to drug
16 paraphernalia); section 329C-2 (manufacture, distribution, or
17 possession with intent to distribute an imitation controlled
18 substance to a person under eighteen years of age); section 346-
19 34(d)(2) and (e) (relating to fraud involving food stamps or
20 coupons); section 346-43.5 (medical assistance frauds;
21 penalties); section 383-141 (falsely obtaining benefits, etc.);



1 section 431:2-403(b)(2) (insurance fraud); section 482D-7
2 (violation of fineness standards and stamping requirements);
3 section 485A-301 (securities registration requirement); section
4 485A-401 (broker-dealer registration requirement and
5 exemptions); section 485A-402 (agent registration requirement
6 and exemptions); section 485A-403 (investment [~~adviser~~] adviser
7 registration requirement and exemptions); section 485A-404
8 (investment [~~adviser~~] adviser representative registration
9 requirement and exemptions); section 485A-405 (federal covered
10 investment adviser notice filing requirement); section 485A-501
11 (general fraud); section 485A-502 (prohibited conduct in
12 providing investment advice); section 707-703 (negligent
13 homicide in the second degree); section 707-705 (negligent
14 injury in the first degree); section 707-711 (assault in the
15 second degree); section 707-713 (reckless endangering in the
16 first degree); section 707-721 (unlawful imprisonment in the
17 first degree); section 707-726 (custodial interference in the
18 first degree); section 707-757 (electronic enticement of a child
19 in the second degree); section 707-766 (extortion in the second
20 degree); section 708-811 (burglary in the second degree);
21 section 708-812.6 (unauthorized entry in a dwelling [f]in the



1 second degree[+]); section 708-821 (criminal property damage in
2 the second degree); section 708-831 (theft in the second
3 degree); section 708-833.5 (shoplifting); section 708-835.5
4 (theft of livestock); section 708-836 (unauthorized control of
5 propelled vehicle); section 708-836.5 (unauthorized entry into
6 motor vehicle in the first degree); section 708-839.5 (theft of
7 utility services); section 708-839.55 (unauthorized possession
8 of confidential personal information); section 708-839.8
9 (identity theft in the third degree); section 708-852 (forgery
10 in the second degree); section 708-854 (criminal possession of a
11 forgery device); section 708-858 (suppressing a testamentary or
12 recordable instrument); section 708-875 (trademark
13 counterfeiting); [~~section 708-891.5 (computer fraud in the~~
14 ~~second degree);~~] section 708-891.6 (computer fraud in the third
15 degree); [~~section 708-892.5 (computer damage in the second~~
16 ~~degree);~~] section 708-892.6 (computer damage in the third
17 degree); [~~section 708-895.6 (unauthorized computer access in the~~
18 ~~second degree);~~] section 708-895.7 (unauthorized computer access
19 in the third degree); section 708-8100 (fraudulent use of a
20 credit card); section 708-8102 (theft, forgery, etc., of credit
21 cards); section 708-8103 (credit card fraud by a provider of



1 goods or services); section 708-8104 (possession of unauthorized
2 credit card machinery or incomplete cards); section 708-8200
3 (cable television service fraud in the first degree); section
4 708-8202 (telecommunication service fraud in the first degree);
5 section 709-903.5 (endangering the welfare of a minor in the
6 first degree); section 709-906 (abuse of family or household
7 members); section 710-1016.3 (obtaining a government-issued
8 identification document under false pretenses in the first
9 degree); section 710-1016.6 (impersonating a law enforcement
10 officer in the first degree); section 710-1017.5 (sale or
11 manufacture of deceptive identification document); section 710-
12 1018 (securing the proceeds of an offense); section 710-1021
13 (escape in the second degree); section 710-1023 (promoting
14 prison contraband in the second degree); section 710-1024 (bail
15 jumping in the first degree); section 710-1029 (hindering
16 prosecution in the first degree); section 710-1060 (perjury);
17 section 710-1072.5 (obstruction of justice); section 711-1103
18 (riot); [~~section 711-1109.3 (cruelty to animals; fighting~~
19 ~~dogs);~~] section 711-1109.35 (cruelty to animals by fighting dogs
20 in the second degree); section 711-1110.9 (violation of privacy
21 in the first degree); section 711-1112 (interference with the



1 operator of a public transit vehicle); section 712-1221
2 (promoting gambling in the first degree); section 712-1222.5
3 (promoting gambling aboard ships); section 712-1224 (possession
4 of gambling records in the first degree); section 712-1243
5 (promoting a dangerous drug in the third degree); section 712-
6 1246 (promoting a harmful drug in the third degree); section
7 712-1247 (promoting a detrimental drug in the first degree);
8 ~~[section 712-1249.6 (promoting a controlled substance in, on, or~~
9 ~~near schools, school vehicles, or public parks);]~~ section 712-
10 1249.6(1)(a), (b), or (c) (promoting a controlled substance in,
11 on, or near schools, school vehicles, public parks, or public
12 housing projects or complexes); section 803-42 (interception,
13 access, and disclosure of wire, oral, or electronic
14 communications, use of pen register, trap and trace device, and
15 mobile tracking device prohibited); or section 846E-9 (failure
16 to comply with covered offender registration requirements).
17 (b) Criminal charges may be instituted by written
18 information for a felony when the charge is a class B felony
19 under section 134-7(b) (ownership or possession prohibited,
20 when; penalty); ~~[+]section[+]~~ 134-23 (place to keep loaded
21 firearms other than pistols and revolvers; penalties); section



1 134-25 (place to keep pistol or revolver; penalty); section 134-
2 26 (carrying or possessing a loaded firearm on a public highway;
3 penalty); section 329-43.5 (prohibited acts related to drug
4 paraphernalia); section 708-810 (burglary in the first degree);
5 section 708-830.5 (theft in the first degree); section 708-839.7
6 (identity theft in the second degree); section 708-851 (forgery
7 in the first degree); [~~section 708-891 (computer fraud in the~~
8 ~~first degree);~~] section 708-891.5 (computer fraud in the second
9 degree); [~~section 708-892 (computer damage in the first~~
10 ~~degree);~~] section 708-892.5 (computer damage in the second
11 degree); section 712-1240.8 (methamphetamine trafficking in the
12 second degree); section 712-1242 (promoting a dangerous drug in
13 the second degree); section 712-1245 (promoting a harmful drug
14 in the second degree); or section 712-1249.5 (commercial
15 promotion of marijuana in the second degree)."

16 SECTION 34. Section 835-3, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§835-3 Material witness order; commencement of proceeding**
19 **by application; procurement of appearance of prospective**
20 **witness.** (a) A proceeding to adjudge a person a material
21 witness must be commenced by application to the appropriate



1 court, made in writing and subscribed and sworn to by the
2 applicant, demonstrating reasonable cause to believe the
3 existence of facts, as specified in [~~subdivision one of section~~
4 ~~835-27~~] section 835-2(a), warranting the adjudication of [~~such~~]
5 the person as a material witness.

6 (b) If the court is satisfied that the application is
7 well-founded, the prospective witness may be compelled to appear
8 in response thereto as follows:

9 (1) The court may issue an order directing the prospective
10 witness to appear therein at a designated time in
11 order that a determination may be made whether the
12 prospective witness should be adjudged a material
13 witness and, upon personal service of [~~such~~] the order
14 or a copy thereof within the State, the prospective
15 witness [~~must~~] shall so appear[-]; and

16 (2) If in addition to the allegations specified in
17 [~~subdivision one7~~] section 835-2(a), the application
18 contains further allegations demonstrating to the
19 satisfaction of the court reasonable cause to believe
20 that:



1 ~~[(+i+)]~~ (A) ~~[the]~~ The witness would be unlikely to
2 respond to such an order~~[7]~~; or
3 ~~[(+ii+)]~~ (B) ~~[after]~~ After previously having been served
4 with such an order, the witness did not respond
5 thereto,
6 the court may issue a warrant addressed to a police officer,
7 directing ~~[such]~~ the officer to take ~~[such]~~ the prospective
8 witness into custody within the State and to bring the
9 prospective witness before the court forthwith in order that a
10 proceeding may be conducted to determine whether the prospective
11 witness is to be adjudged a material witness."

12 SECTION 35. Section 846-2.7, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) Criminal history record checks may be conducted by:

15 (1) The department of health or the department's designee
16 on operators of adult foster homes or developmental
17 disabilities domiciliary homes and their employees, as
18 provided by section 333F-22;

19 (2) The department of health or the department's designee
20 on prospective employees, persons seeking to serve as
21 providers, or subcontractors in positions that place



1 them in direct contact with clients when providing
2 non-witnessed direct mental health services as
3 provided by section 321-171.5;

4 (3) The department of health or the department's designee
5 on all applicants for licensure for, operators for,
6 prospective employees, and volunteers at one or more
7 of the following: skilled nursing facility,
8 intermediate care facility, adult residential care
9 home, expanded adult residential care home, assisted
10 living facility, home health agency, hospice, adult
11 day health center, special treatment facility,
12 therapeutic living program, intermediate care facility
13 for individuals with intellectual disabilities,
14 hospital, rural health center and rehabilitation
15 agency, and, in the case of any of the above
16 facilities operating in a private residence, on any
17 adult living in the facility other than the client as
18 provided by section 321-15.2;

19 (4) The department of education on employees, prospective
20 employees, and teacher trainees in any public school



1 in positions that necessitate close proximity to
2 children as provided by section 302A-601.5;

3 (5) The counties on employees and prospective employees
4 who may be in positions that place them in close
5 proximity to children in recreation or child care
6 programs and services;

7 (6) The county liquor commissions on applicants for liquor
8 licenses as provided by section 281-53.5;

9 (7) The county liquor commissions on employees and
10 prospective employees involved in liquor
11 administration, law enforcement, and liquor control
12 investigations;

13 (8) The department of human services on operators and
14 employees of child caring institutions, child placing
15 organizations, and foster boarding homes as provided
16 by section 346-17;

17 (9) The department of human services on prospective
18 adoptive parents as established under section
19 346-19.7;

20 (10) The department of human services on applicants to
21 operate child care facilities, prospective employees



1 of the applicant, and new employees of the provider
2 after registration or licensure as provided by section
3 346-154;

4 (11) The department of human services on persons exempt
5 pursuant to section 346-152 to be eligible to provide
6 child care and receive child care subsidies as
7 provided by section 346-152.5;

8 (12) The department of health on operators and employees of
9 home and community-based case management agencies and
10 operators and other adults, except for adults in care,
11 residing in foster family homes as provided by section
12 321-484;

13 (13) The department of human services on staff members of
14 the Hawaii youth correctional facility as provided by
15 section 352-5.5;

16 (14) The department of human services on employees,
17 prospective employees, and volunteers of contracted
18 providers and subcontractors in positions that place
19 them in close proximity to youth when providing
20 services on behalf of the office or the Hawaii youth
21 correctional facility as provided by section 352D-4.3;



(15) The judiciary on employees and applicants at detention and shelter facilities as provided by section 571-34;

(16) The department of public safety on employees and prospective employees who are directly involved with the treatment and care of persons committed to a correctional facility or who possess police powers including the power of arrest as provided by section 353C-5;

(17) The board of private detectives and guards on applicants for private detective or private guard licensure as provided by section 463-9;

(18) Private schools and designated organizations on employees and prospective employees who may be in positions that necessitate close proximity to children; provided that private schools and designated organizations receive only indications of the states from which the national criminal history record information was provided pursuant to section 302C-1;

(19) The public library system on employees and prospective employees whose positions place them in close



1 proximity to children as provided by section

2 302A-601.5;

3 (20) The State or any of its branches, political
4 subdivisions, or agencies on applicants and employees
5 holding a position that has the same type of contact
6 with children, vulnerable adults, or persons committed
7 to a correctional facility as other public employees
8 who hold positions that are authorized by law to
9 require criminal history record checks as a condition
10 of employment as provided by section 78-2.7;

11 (21) The department of health on licensed adult day care
12 center operators, employees, new employees,
13 subcontracted service providers and their employees,
14 and adult volunteers as provided by section 321-496;

15 (22) The department of human services on purchase of
16 service contracted and subcontracted service providers
17 and their employees serving clients of the [†]adult
18 protective and community services branch[†], as
19 provided by section 346-97;

20 (23) The department of human services on foster grandparent
21 program, senior companion program, and respite



1 companion program participants as provided by section
2 346-97;

3 (24) The department of human services on contracted and
4 subcontracted service providers and their current and
5 prospective employees that provide home and community-
6 based services under section 1915(c) of the Social
7 Security Act, title 42 United States Code section
8 1396n(c), or under any other applicable section or
9 sections of the Social Security Act for the purposes
10 of providing home and community-based services, as
11 provided by section 346-97;

12 (25) The department of commerce and consumer affairs on
13 proposed directors and executive officers of a bank,
14 savings bank, savings and loan association, trust
15 company, and depository financial services loan
16 company as provided by section 412:3-201;

17 (26) The department of commerce and consumer affairs on
18 proposed directors and executive officers of a
19 nondepository financial services loan company as
20 provided by section 412:3-301;



(27) The department of commerce and consumer affairs on the original chartering applicants and proposed executive officers of a credit union as provided by section 412:10-103;

(28) The department of commerce and consumer affairs on:

(A) Each principal of every non-corporate applicant for a money transmitter license; and

(B) The executive officers, key shareholders, and managers in charge of a money transmitter's activities of every corporate applicant for a money transmitter license,

as provided by sections 489D-9 and 489D-15;

(29) The department of commerce and consumer affairs on applicants for licensure and persons licensed under title 24;

(30) The Hawaii health systems corporation on:

(A) Employees;

(B) Applicants seeking employment;

(C) Current or prospective members of the corporation board or regional system board; or



(D) Current or prospective volunteers, providers, or contractors, in any of the corporation's health facilities as provided by section 323F-5.5;

(31) The department of commerce and consumer affairs on:

(A) An applicant for a mortgage loan originator license; and

(B) Each control person, executive officer, director, general partner, and manager of an applicant for a mortgage loan originator company license, as provided by chapter 454F;

(32) The state public charter school commission or public charter schools on employees, teacher trainees, prospective employees, and prospective teacher trainees in any public charter school for any position that places them in close proximity to children, as provided in section 302D-33;

(33) The counties on prospective employees who work with children, vulnerable adults, or senior citizens in community-based programs;



- 1 (34) The counties on prospective employees for fire
2 department positions which involve contact with
3 children or vulnerable adults;
- 4 (35) The counties on prospective employees for emergency
5 medical services positions which involve contact with
6 children or vulnerable adults;
- 7 (36) The counties on prospective employees for emergency
8 management positions and community volunteers whose
9 responsibilities involve planning and executing
10 homeland security measures including viewing,
11 handling, and engaging in law enforcement or
12 classified meetings and assisting vulnerable citizens
13 during emergencies or crises;
- 14 (37) The State and counties on employees, prospective
15 employees, volunteers, and contractors whose position
16 responsibilities require unescorted access to secured
17 areas and equipment related to a traffic management
18 center;
- 19 (38) The State and counties on employees and prospective
20 employees whose positions involve the handling or use
21 of firearms for other than law enforcement purposes;



1 (39) The State and counties on current and prospective
2 systems analysts and others involved in an agency's
3 information technology operation whose position
4 responsibilities provide them with access to
5 proprietary, confidential, or sensitive information;
6 [+] (40) [+] The department of commerce and consumer affairs on
7 applicants for real estate appraiser licensure or
8 certification as provided by chapter 466K; and
9 [+] (41) [+] Any other organization, entity, or the State, its
10 branches, political subdivisions, or agencies as may
11 be authorized by state law."

12 **PART II.**

13 SECTION 36. Section 180-2, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§180-2 General powers and duties of department.** The
16 department of land and natural resources shall keep a record of
17 its official actions[7] and may perform [~~such~~] acts[7] and
18 [~~promulgate such~~] adopt rules [~~and regulations~~] as may be
19 necessary for the execution of its functions under this chapter.
20 It may call upon the attorney general for legal services[7] or
21 employ its own counsel in conformity with section [~~103D-209(b)-~~]



1 28-8.3. It may delegate to any member, agent, or employee,
2 [~~such~~] powers and duties as it may deem proper. Upon request of
3 the department, other agencies of the state government [~~shall~~],
4 insofar as available appropriations and resources will permit,
5 shall assign staff members or personnel to the department, and
6 make [~~such~~] reports, surveys, or studies as the department may
7 request."

8 SECTION 37. Section 383-103, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) In any civil action to enforce this chapter, the
11 department of labor and industrial relations and the State may
12 be represented by the attorney general or by any qualified
13 attorney who is employed by the department for [~~such~~] that
14 purpose in conformity with section [~~103D-209(b)-~~] 28-8.3."

15 SECTION 38. Section 392-76, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§392-76 Representation.** In any proceeding for judicial
18 review pursuant to section 392-75, the director may be
19 represented by the attorney general or by any qualified attorney
20 who is employed by the department for [~~such~~] that purpose in
21 conformity with section [~~103D-209(b)-~~] 28-8.3."



SECTION 39. Section 674-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Upon application by a claimant, the panel, under appropriate circumstances and in accordance with section ~~[103D-209(b),]~~ 28-8.3, may provide for legal services to assist a claimant in the preparation and presentation of a claim for review by the panel under this chapter."

SECTION 40. Section 674-13, Hawaii Revised Statutes, is amended to read as follows:

"§674-13 Legal adviser. The panel, in accordance with section ~~[103D-209(b),]~~ 28-8.3, shall obtain its own legal counsel to provide legal services necessary to implement the purposes of this chapter."

PART III.

SECTION 41. Section 323-3, Hawaii Revised Statutes, is amended to read as follows:

"[+]§323-3[+] Practice by advanced practice registered nurses. Each hospital in the State licensed under section 321-14.5 shall allow advanced practice registered nurses ~~[+]licensed[+]~~ pursuant to section 457-8.5 and qualified advanced practice registered nurses granted prescriptive



1 authority pursuant to section 457-8.6 to practice at the
2 hospital within the full scope of practice authorized under
3 chapter 457, including practice as a primary care provider."

4 SECTION 42. Section 325-121, Hawaii Revised Statutes, is
5 amended by amending the definition of "health care provider" to
6 read as follows:

7 "Health care provider" means a program, agency, clinic,
8 health care center, physician licensed under the provisions of
9 chapter 453, advanced practice registered nurse [†]licensed[†]
10 under the provisions of chapter 457, pharmacist licensed under
11 the provisions of chapter 461, physician's assistant licensed
12 under the provisions of chapter 453, person authorized to
13 practice medicine as a physician or physician's assistant, or
14 nursing as an advanced practice registered nurse, in federal
15 facilities located in the State, that administers immunizations
16 in Hawaii, or any other person authorized to prescribe
17 vaccinations in Hawaii."

18 SECTION 43. Section 327K-1, Hawaii Revised Statutes, is
19 amended by amending the definition of "patient's provider" to
20 read as follows:



1 "Patient's provider" means a physician licensed pursuant
2 to chapter 453 or an advanced practice registered nurse
3 [+]licensed[+] pursuant to chapter 457 who has examined the
4 patient."

5 SECTION 44. Section 346C-8, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

7 "(b) An individual qualifying for long-term care services
8 under the program shall have written certification from a
9 physician or osteopathic physician licensed under chapter 453 or
10 an advanced practice registered nurse [~~recognized~~] licensed
11 under section 457-8.5, assigned by the board of trustees
12 certifying that the individual requires one or more long-term
13 care services for the period of time during which the individual
14 receives the benefits under the program. The written
15 certification shall specify that the individual:

- 16 (1) Is unable to perform, without substantial assistance
17 from another individual, at least two of six
18 activities of daily living for a period of at least
19 ninety days due to a loss of functional capacity; or



1 (2) Requires substantial supervision to protect the
2 individual from threats to health and safety to self
3 or others due to severe cognitive impairment."

4 SECTION 45. Section 431:10A-116, Hawaii Revised Statutes,
5 is amended to read as follows:

6 "**§431:10A-116 Coverage for specific services.** Every
7 person insured under a policy of accident and health or sickness
8 insurance delivered or issued for delivery in this State shall
9 be entitled to the reimbursements and coverages specified below:

10 (1) Notwithstanding any provision to the contrary,
11 whenever a policy, contract, plan, or agreement
12 provides for reimbursement for any visual or
13 optometric service, which is within the lawful scope
14 of practice of a duly licensed optometrist, the person
15 entitled to benefits or the person performing the
16 services shall be entitled to reimbursement whether
17 the service is performed by a licensed physician or by
18 a licensed optometrist. Visual or optometric services
19 shall include eye or visual examination, or both, or a
20 correction of any visual or muscular anomaly, and the
21 supplying of ophthalmic materials, lenses, contact



1 lenses, spectacles, eyeglasses, and appurtenances
2 thereto;

3 (2) Notwithstanding any provision to the contrary, for all
4 policies, contracts, plans, or agreements issued on or
5 after May 30, 1974, whenever provision is made for
6 reimbursement or indemnity for any service related to
7 surgical or emergency procedures, which is within the
8 lawful scope of practice of any practitioner licensed
9 to practice medicine in this State, reimbursement or
10 indemnification under [~~such~~] the policy, contract,
11 plan, or agreement shall not be denied when [~~such~~] the
12 services are performed by a dentist acting within the
13 lawful scope of the dentist's license;

14 (3) Notwithstanding any provision to the contrary,
15 whenever the policy provides reimbursement or payment
16 for any service, which is within the lawful scope of
17 practice of a psychologist licensed in this State, the
18 person entitled to benefits or performing the service
19 shall be entitled to reimbursement or payment, whether
20 the service is performed by a licensed physician or
21 licensed psychologist;



1 (4) Notwithstanding any provision to the contrary, each
2 policy, contract, plan, or agreement issued on or
3 after February 1, 1991, except for policies that only
4 provide coverage for specified diseases or other
5 limited benefit coverage, but including policies
6 issued by companies subject to chapter 431, article
7 10A, part II and chapter 432, article 1 shall provide
8 coverage for screening by low-dose mammography for
9 occult breast cancer as follows:

10 (A) For women forty years of age and older, an annual
11 mammogram; and

12 (B) For a woman of any age with a history of breast
13 cancer or whose mother or sister has had a
14 history of breast cancer, a mammogram upon the
15 recommendation of the woman's physician.

16 The services provided in this paragraph are
17 subject to any coinsurance provisions that may be in
18 force in these policies, contracts, plans, or
19 agreements.

20 For the purpose of this paragraph, the term "low-
21 dose mammography" means the x-ray examination of the



1 breast using equipment dedicated specifically for
2 mammography, including but not limited to the x-ray
3 tube, filter, compression device, screens, films, and
4 cassettes, with an average radiation exposure delivery
5 of less than one rad mid-breast, with two views for
6 each breast. An insurer may provide the services
7 required by this paragraph through contracts with
8 providers; provided that the contract is determined to
9 be a cost-effective means of delivering the services
10 without sacrifice of quality and meets the approval of
11 the director of health;

12 (5) (A) (i) Notwithstanding any provision to the
13 contrary, whenever a policy, contract, plan,
14 or agreement provides coverage for the
15 children of the insured, that coverage shall
16 also extend to the date of birth of any
17 newborn child to be adopted by the insured;
18 provided that the insured gives written
19 notice to the insurer of the insured's
20 intent to adopt the child prior to the
21 child's date of birth or within thirty days



1 after the child's birth or within the time
2 period required for enrollment of a natural
3 born child under the policy, contract, plan,
4 or agreement of the insured, whichever
5 period is longer; provided further that if
6 the adoption proceedings are not successful,
7 the insured shall reimburse the insurer for
8 any expenses paid for the child; and

9 (ii) Where notification has not been received by
10 the insurer prior to the child's birth or
11 within the specified period following the
12 child's birth, insurance coverage shall be
13 effective from the first day following the
14 insurer's receipt of legal notification of
15 the insured's ability to consent for
16 treatment of the infant for whom coverage is
17 sought; and

18 (B) When the insured is a member of a health
19 maintenance organization (HMO), coverage of an
20 adopted newborn is effective:



1 (i) From the date of birth of the adopted
2 newborn when the newborn is treated from
3 birth pursuant to a provider contract with
4 the health maintenance organization, and
5 written notice of enrollment in accord with
6 the health maintenance organization's usual
7 enrollment process is provided within thirty
8 days of the date the insured notifies the
9 health maintenance organization of the
10 insured's intent to adopt the infant for
11 whom coverage is sought; or

12 (ii) From the first day following receipt by the
13 health maintenance organization of written
14 notice of the insured's ability to consent
15 for treatment of the infant for whom
16 coverage is sought and enrollment of the
17 adopted newborn in accord with the health
18 maintenance organization's usual enrollment
19 process if the newborn has been treated from
20 birth by a provider not contracting or



1 affiliated with the health maintenance
2 organization; and

3 (6) Notwithstanding any provision to the contrary, any
4 policy, contract, plan, or agreement issued or renewed
5 in this State shall provide reimbursement for services
6 provided by advanced practice registered nurses
7 [~~recognized~~] licensed pursuant to chapter 457.

8 Services rendered by advanced practice registered
9 nurses are subject to the same policy limitations
10 generally applicable to health care providers within
11 the policy, contract, plan, or agreement."

12 SECTION 46. Section 431:10C-103.5, Hawaii Revised
13 Statutes, is amended by amending subsection (a) to read as
14 follows:

15 "(a) Personal injury protection benefits, with respect to
16 any accidental harm, means all appropriate and reasonable
17 treatment and expenses necessarily incurred as a result of the
18 accidental harm and which are substantially comparable to the
19 requirements for prepaid health care plans, including medical,
20 hospital, surgical, professional, nursing, advanced practice
21 nursing [~~recognized~~] licensed pursuant to chapter 457, dental,



1 optometric, naturopathic medicine, chiropractic, ambulance,
2 prosthetic services, medical equipment and supplies, products
3 and accommodations furnished, x-ray, psychiatric, physical
4 therapy pursuant to prescription by a medical doctor,
5 occupational therapy, rehabilitation, and therapeutic massage by
6 a licensed massage therapist when prescribed by a medical
7 doctor."

8 SECTION 47. Section 431M-1, Hawaii Revised Statutes, is
9 amended by amending the definition of "advanced practice
10 registered nurse" to read as follows:

11 " "Advanced practice registered nurse" means a person
12 [~~recognized as such~~] licensed pursuant to chapter 457."

13 SECTION 48. Section 432:1-611, Hawaii Revised Statutes, is
14 amended to read as follows:

15 " **[+]§432:1-611 Reimbursement for services of advanced**
16 **practice registered nurses.[+]** All individual and group
17 hospital and medical service plan contracts and medical service
18 corporation contracts under this article shall provide
19 reimbursement for health plan-covered services provided by
20 advanced practice registered nurses [~~recognized~~] licensed
21 pursuant to chapter 457."



PART IV.

SECTION 49. Act 119, Session Laws of Hawaii 2009, as amended by section 2 of Act 138, Session Laws of Hawaii 2010, is amended by amending section 6 to read as follows:

"SECTION 6. This Act shall take effect on July 1, 2009, and shall be repealed on June 30, 2015; provided that section 328L-2, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of Act 264, Session Laws of Hawaii 2007; provided further that ~~[section]~~ sections 328L-3~~[7]~~ and 328L-4, Hawaii Revised Statutes, shall be reenacted in the form in which ~~[it]~~ they read on the day before the effective date of this Act."

SECTION 50. Act 127, Session Laws of Hawaii 2010, is amended by amending section 4 to read as follows:

"SECTION 4. This Act shall take effect upon its approval; and shall apply to investments made or purchased after December 31, 2009[-]; provided that the amendments made to section 36-21(a), Hawaii Revised Statutes, by this Act shall not be repealed when that section is reenacted on July 1, 2015, pursuant to section 34(4) of Act 79, Session Laws of Hawaii 2009."



1 SECTION 51. Act 50, Session Laws of Hawaii 2014, is
2 amended by amending the prefatory language of section 1 to read
3 as follows:

4 "SECTION 1. Act 84, Session Laws of Hawaii 2004, as
5 amended by section 1 of Act 77, Session Laws of Hawaii 2008, as
6 amended by ~~[section]~~ sections 1 and 2 of Act 75, Session Laws of
7 Hawaii 2010, is amended by amending section 5 to read as
8 follows:"

9 SECTION 52. Act 86, Session Laws of Hawaii 2014, is
10 amended by amending the prefatory language of section 2 to read
11 as follows:

12 "SECTION 2. Act 82, Session Laws of Hawaii 2003, as
13 amended by section 5 of Act 152, Session Laws of Hawaii 2007, as
14 amended by section 1 of Act 144, Session Laws of Hawaii 2008, as
15 amended by section 3 of Act 81, Session Laws of Hawaii 2009, is
16 amended by amending section 8 to read as follows:"

17 **PART V.**

18 SECTION 53. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 54. This Act shall take effect upon its approval;
21 provided that:



S.B. NO. 1156

1 (1) Section 49 shall take effect on June 29, 2015; and

2 (2) Section 50 shall take effect on June 30, 2015.

3

INTRODUCED BY:

John Merenda K.



S.B. NO. 1156

Report Title:

Revision Bill

Description:

Amending or repealing various provisions of the Hawaii Revised Statutes and the Session Laws of Hawaii for the purposes of correcting errors and references, clarifying language, and deleting obsolete or unnecessary provisions.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

